

29
H I C K E Y

AGAINST

Hamilton and Hervey:

Or, a Proper

R E P L Y

TO THE

Cafe of *JOHN HAMILTON*,

As set forth by

His Honourable SOLICITOR,

In Relation to the Acquittal of

JOSEPH HICKEY, Attorney,

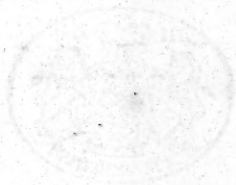
Mark now, how plain a Tale shall put you down.

HANMER'S SHAKESPEAR.

L O N D O N :

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H I C K E Y

A G A I N S T

Hamilton and Hervey.

IT must be confess'd, that few private Characters or private Cases are interesting and important enough to merit the Attention of the Public : But as his *Honour* the *Solicitor* in *Hamilton's* Suit against Mr. *Hickey*, observes, Perjury is so heinous and atrocious a Crime, He that has been accused of it in Print, finds himself obliged to set forth a Printed Answer.

It has been Mr. *Hickey's* Misfortune to be thus accus'd in Two several Libels : The First under the Title of, *A Letter to a Gentleman in the Country*; and the other under that of, *The Case of John Hamilton*.

It was at first thought expedient to answer both, and both were answered accordingly : But on reflecting, That the *Letter* contained little more than a scurrilous Invective against the Law and Lawyers, void alike both of Arguments and Facts; and that of all Faults, Tedioufness was the most unpardonable to a Reader; it was resolved to consider the Last only, in which all that was thought material to support the Charge is to be found.

And whether that *other* Performance, is the Case or not, shall now be consider'd.

“ The Plaintiff sets forth (it is thus the *Case* is
“ open'd) That, after LONG *Forbearance* and *Indul-*

“ gence shewn to his Debtor, he was *obliged* to
 “ come to *England*, in order to arrest *Captain John*
 “ *Pennefather*, who ow’d him four score Pounds.
 “ The greatest part of which Sum had been lent.”

The Plaintiff, *John Hamilton*, kept an Ale-house in *Dublin* : *John Pennefather*, here call’d a *Captain*, had been a Lieutenant, but sold his Commission, had spent the Money, and as the Plaintiff well knew, was not worth a Shilling : for his Debt therefore (however contracted) *Hamilton* thought fit to take a Bond and Warrant of Attorney in *Dublin* : This Bond bears Date *November 19*, was made payable the 10th of *December* ensuing ; and by the 23d of the same Month (notwithstanding the fine Words *LONG Forbearance* and *Indulgence* above made use of) *Pennefather* was taken in Execution in *London* : which is here taken Notice of, in order to give the Reader a Specimen of the Truth and Candour the Case-Writer sets out with. And one cannot help thinking, the *Plaintiff* and *Defendant* came over together ; the one to Arrest, and the other to be Arrested, in order to *snack* the Money, in case of Payment, between them.

For Lady *St. Leger* was *Pennefather*’s Sister : She happened to be then in *London*, and out of her Pocket the Money was to be *squeezed* : a Phrase which we shall have Occasion to make use of again by and by.

We are told in the next Place, that *Hamilton*
 “ *besought* his Friend, one *Mr. Coyne*, to recommend
 “ him to an Attorney : That *Coyne*, knowing no
 “ Attorney, went with *Hamilton* to *Mr. Bristow*,
 “ a Peruke-Maker in *St. Alban’s-Street*, who *very*
 “ *readily* undertook to procure him one : That
 “ *Hamilton* entered his Caveat against an *IRISH At-*
 “ *torney* : And that *Mr. Bristow* did nevertheless
 “ recom-

“ recommend him to Mr. *Hickey*, who was an
 “ *Irish Attorney*, and *Bristow*’s Neighbour.”

And here I am charm’d with an Opportunity to make my Adversary a Concession. No Word was ever used with more Propriety than the Word *besought* as used above. *Hamilton* was as poor as *Pennefather*, and was to be served on a Principle of Charity. Mr. *Bristow* is a Man of Credit and Substance, and liable to as little Reproach for being Mr. *Hickey*’s Neighbour, as Mr. *Hickey* for having been born in *Ireland*. And as to Mr. *Coyne*, being asked on the 21st of *September*, by a Gentleman of Character, “ In what Light he “ considered Mr. *Hickey*?” His Answer was, “ In that of a Man of Worth and Honour; and “ as one whom he had known to be received as “ such, by Persons of Rank and Figure, with “ whom he had lived as a Servant.” And being farther asked, “ What he thought of *Hamilton* “ and his Cause?” He replied, That he thought *Hamilton* a wicked, bad Man, for prosecuting such a Cause: Adding, That Mr. *Hervey* himself had sent to him often; that, he declining to go to him, Mr. *Hervey* had called at his House, together with *Hamilton*, two or three times: That in Answer to the Questions put to him, his Answer was, That he had no more to say in the Affair than this: That he had recommended *Hamilton* to *Bristow*, as a likely Person to prevail with Mr. *Hickey* to undertake his Suit, and that he knew nothing of Mr. *Hickey* but what corresponded with the Character he had given of him as above.

The Circumstances which occur next are These; That poor *Hamilton*’s Papers were deposited in *Hickey*’s Hands: That *Hickey* undertook to give a good Account of them, and that *Pennefather*
 was

was arrested in a *short time* afterwards. In all which there is nothing worth Notice, except that he is pleased to find Fault with *Hickey*, for calling *Bristow* *Hamilton's Friend*, in his Affidavit ; which is not in the least reprehensible, when the Relation is considered, which they had to each other in this Cause : Nothing being more common than, upon such Occasions, to call the Person who recommends the Friend of the Person recommended : And if *Hamilton* at that Time had been asked, in the common Phrase, if *Bristow* had stood his *Friend* with *Hickey*, he would not have had the Impudence to deny it.

But this Writer, whether his Honour Mr. *Hervey*, or his Honour's Footman, *Hamilton*, is at once the most petulant, the most insidious, and the most frivolous thing that ever dabbled in Ink. For as he means to abuse *Bristow* by calling him *Hickey's good Neighbour* ; so he has the same good Intentions in calling Lady *St. Leger* his *very good Friend* : And we shall find as we go on, that by the use of the *Italic* Character, he means to give her an *Italic* Stab into the Bargain.

But to proceed with the *Case*, “ The Capture
 “ being made, (these are the Words of it) *Ha-*
 “ *milton's* Affairs requiring his *Presence* and At-
 “ tendance in *Dublin*, and Mr. *Hickey* having
 “ made himself again responsible either for his
 “ Debt or Debtor, *Hamilton* set out the *next Day*
 “ on his Return to *Ireland*. This is to be proved
 “ by the Oath of Mr. *Ward*, Butler to the Lord
 “ *Kildare*, who was to have accompanied the
 “ Plaintiff, but that *Hamilton* was so *pressed* in
 “ point of time, he could not *stay* for him.
 “ Mr. *Ward* testifies he left *London* in a Day or
 “ two

“ two after *Hamilton*; and that he was one of
 “ the first Persons he saw in *Dublin*.”

Upon this follows a Quotation from *Hickey's* Affidavit, (for as in the *former* Piece, so in *this*, he observes no Order of Narration, he gives no Series of Facts. He does not once attempt to give his Readers a clear and consistent Idea of the whole Transaction) to this Effect; “ That he did not
 “ discharge his Prisoner till he had been a Fort-
 “ night in *Wilson* the Bailiff's Custody; during
 “ which Interval he made frequent Applications
 “ to Lady *St. Leger*, in behalf of her Brother;
 “ that he had from Time to Time acquainted
 “ *Hamilton* with the Result of their Conferences;
 “ and that he had satisfy'd him, that there was
 “ nothing to be obtained of her.”

This is introduced with a Call upon the Reader to observe, that *Hickey* had thought fit to swear this, in despite of the *respective* Oaths of *Hamilton* and *Ward*, though, continues he, with the utmost hardiness, *This is already proved to be impossible, unless Hamilton could be in two Places at once*. He then introduces one *Toole*, in order to shew, that *probably* Lady *St. Leger*, and Mr. *Hickey* had but *one* Conference, which was a decisive one *for poor Hamilton's Cause*.

This *Toole*, who was in the Service of Lady *St. Leger*, as we are told, at the Time of this Transaction, had obtained Leave of his then Mistress, Miss *Trotter*, to accompany *Hamilton* to the Grand Jury, to be sworn as an Evidence on his Part, in the Lump, (for so the Words *to the following Effect* may be understood) That he did himself bring a melancholy Message from *Pennefather* to his Sister; that he was present when Mr. *Hickey* first waited on her Lady-
 ship:

ship: " That upon her enquiring whether *Hickey* " was once of the *Hickeys* of *Cashel*, and receiving " an Answer in the Affirmative, she expressed her " Surprize, that any *Townsmen* of hers should undertake any thing against one of the Family of " the *Pennefathers*, and that *Hickey* by way of " Apology at first pleaded Ignorance of that Relationship; and then, that his Undertaking " arose from a hasty Engagement of his *Clerks*." This is all, it seems, that *Toole* was to swear in regard to their Interview; for when the Conference had been thus opened, he left the Room; and when it was over he returned apparently to know the Issue; for Lady *St. Leger* is, in the next Place, made to say, on his Re-entrance, the following Words, to wit, " This worthless Brother of mine " has now cost me ten Guineas more; but if ever " he gets into such another Place, he may starve " or rot, for *she* would never more relieve him."

Unfortunately the *Grand Jury* did not sit upon that Day, when this *Toole* was to give his Evidence; (at least we are so told); and we must take it upon content, for no Day is specify'd, or *Proof* is offered: And Mrs. *Trotter's* Maid, one Mrs. *Crummy*, (who *she* is, unless Mrs. *Trotter's* Maid with a new Name, which is not specify'd, no Mortal can imagine.) Mrs. *Crummy's* Husband, whom we never heard of before, together with the *Prosecutor* himself, are to make good the Defect by swearing, for so it seems they are ready to do, to all that is *above recited*.

And now having taken in so much of the *Case* at one View, it is Time to resume our Reply.

In order to which, we must recollect what was said in the very first Paragraph of it, to wit, that *Hamilton* was oblig'd to come to *England* to arrest

arrest *Pennefather*, in order to compare it with those subsequent Expressions, That the Capture being made, and *Hickey* having made himself again responsible for the Debt, *Hamilton's* Affairs were so pressing, that he was obliged to set out the next Day, on his Return to *Ireland*.

Now, that *Hamilton* was as poor as *Pennefather*, has been already asserted, and we shall find a sort of Acknowledgment of it, in the *Case* itself, as we go on: How then is it to be conceived, that as he had arrested *Pennefather*, which he had been oblig'd to come to *London* to do, a like Urgency should oblige him to go back, without staying a second Day, to know the Issue of his Cause.

He was, as we have seen, but an *Ale-House-Keeper* in *Dublin*; and it is all the way along admitted, that Four-score Pounds was an Object of great Concern to him.

Then as to *Ward's* Evidence, it appears so glaringly insignificant, that it would be paying too much Regard to it to take Notice of it, but is in effect this. That *Ward* is ready to swear that he left *London* in a Day or two after *Hamilton*, who was notwithstanding one of the first Persons he saw in *Dublin*; and the *Solicitor's* Conclusion is, therefore Mr. *Bristow* and *Hickey* (whose Evidence is positive to the Fact) must be perjured.

And as to that Part of *Toole's* Evidence, which relates to the ten Guineas, if ten Guineas had been really given by Lady *St. Leger* to *Hickey*, surely *Hickey* would have found Means to satisfy *Wilson* the Bailiff, who had *Pennefather* in Custody, out of it: And if *Wilson*, on the contrary, growing weary of an insolvent Prisoner, had also importuned Lady *St. Leger* on his Behalf, as he actually did, surely her Ladyship would, in

Justice to herself, as well as in Compassion to her Brother, have told him with Indignation, what without any visible Motive, she had told her Servant *Toole*; namely, That she had paid ten Guineas to *Hickey* as the Price of his Enlargement: Instead of which she told *Wilson* as she had told *Hickey* before: Her Brother was so worthless a Man, that she would do nothing for him, because nothing she could do would be of Service to him.

Besides, neither in *Hamilton's* Affidavit, nor in either of his Honourable *Solicitor's* Books, does *Hamilton* once intimate, that he ever did apply to Lady *St. Leger* for Information, of what passed between Mr. *Hickey* concerning her Brother, tho' she remained in Town above two Years afterwards; tho' she was the only Person that could detect Mr. *Hickey* in case of any fraudulent Practice; and tho' it was the main *Hinge* upon which the whole Affair turn'd.

It is fit the next Section of the *Case* should be given in the *Stater's* own Words and Characters: For otherwise it may not be credited perhaps, that a Lady could be so outrageously us'd, only for not humouring the ridiculous Passions of one who officiously crouded himself into an Affair, which he ought to have been ashamed of lending the least Countenance to.

The said Section then is conceived as follows:

“ The Reader, 'tis thought, might easily foresee
 “ what was to be the Fate of *Hamilton*, as soon
 “ as Mr. *Hickey* made his Apology to Lady
 “ *St. Leger*, tho' no Mention had ever been made
 “ of the ten Guineas. The Enlargement of
 “ Mr. *Pennefather* must of Necessity ensue, ei-
 “ ther for *Love* or *Money*, when a Claim of
 “ Friendship had been so importantly urged by
 “ her

“ her Ladyship, and so readily acknowledged by
 “ Mr. *Hickey*. For what a reprobate Fellow must
 “ this have been, to have done any Violence to
 “ his *Townswoman* ?”

And this puts me in mind of a Person, who having made himself eminent for his Readiness to enforce any Point he had to urge, or Purpose to serve, by some striking *Fact*, and being ask'd How he came to be so extremely well furnished with *Facts* for all Occasions and all Purposes? roundly answered, *Why, Sir, I make my Facts.*

Our *Letter Writer*, and *Case-Stater*, is a Pedlar in the same Way; but does not deal with the same Success: He did unquestionably mean to bespeak some such Præsentiment in his Reader by this Interlocution (for his Malice is very sincere): But I verily believe there is no Man living besides himself, who from such rotten Premises would hold himself excusable for drawing any such Conclusion.

But I do him too much Honour by dwelling on such Trifles, however provoking; and shall therefore hasten to his next Paragraph, in which he complains of *Hickey*, for having prevailed with the Court of *King's-Bench* to put off his Trial from *Term* to *Term*; that he might have the Benefit of Lady *St. Leger's* Evidence (no such Demurrer having been made when he was arraigned on his FIRST INDICTMENT at the *Old-Bailey*) and of her Ladyship for appearing in his Behalf, (notwithstanding all that is said in the *Case*) in order to vouch, that she had given *Hickey* but *two Guineas*, as he affirms in his Affidavit. To which it is answered, That no such Demurrer was pleaded in the first Instance, because Mr. *Hickey* did not, at that Time, ima-

gine his Adversaries would have dared to offer any Evidence of any kind in Proof of so villainous a Falshood ; and it was urged in the Second, because his *Honour* the *Solicitor*, for the Sake of his *poor Servant*, had given out, he would make it *appear* *Hickey* had received *more* than two Guineas ; which being the only Thing that materially affected Mr. *Hickey*, and her Ladyship being the only Person whose Evidence could effectually secure him against the Effects of so diabolical a *Conspiracy*, he thought her Appearance in his Behalf was not to be dispensed with. From the Rancour discovered in distorting every Circumstance, how minute soever, it is easy to conceive what an Interpretation would have been put on her *Non-Appearance*.—Mr. *Hickey* might affirm, without any Violence to Truth, that the Expence he has been put to in the Course of this iniquitous and scandalous Persecution, has equalled the Debt which it was *design'd* he should discharge.—But when the Inconvenience brought on Lady *St. Leger*, who was actuated by no other Regard than that of Justice only, comes into Consideration, he no longer thinks it becoming, to insist on his own peculiar Hardships.

Her Ladyship was then in *Ireland*, in an ill State of Health ; had, moreover, extraordinary Business of her own to attend ; and had made Affidavits of the Facts she was to attest before the Lord Mayor of *Dublin*, in hope to be excused from the Fatigues and Perplexities of so unseasonable a Voyage : But when her Presence appeared to be indispensable, she had the Goodness to signify her Purpose of attending accordingly.--

In

In one of her Letters, she says, " I was hopeful
 " that the Affidavit made before my Lord Mayor
 " here, would have put off the Trial till I could
 " go to *England*: I am very certain, if you ap-
 " ply to Court and inform them of my State of
 " Health, that your Trial will be put off till I
 " can appear in Person.—And afterwards, " If
 " you think my writing to any Person in *Lon-*
 " *don*, to inform them of the Matters of Fact
 " relating to all I know of this Affair, I most
 " willingly will do every thing in my Power, to
 " have Justice done you."

In a second Letter, her Ladyship also writes
 as follows: " I assure you nothing but a Point of
 " Justice should oblige me to leave this King-
 " dom, as I have extraordinary Business to tran-
 " fact relating to my Family: But as your Cha-
 " racter, &c. are at Stake, I will postpone my
 " Business, and go at the Time I mention."

And now let the impartial Reader judge to
 which Evidence most Credit is due: The *Report*
 of *Toole* from a *Report* of *Lady St. Leger's*, again
 reported by *Miss Trotter's* Maid (who, besides,
 does not pretend to remember what is said con-
 cerning *Hickey's* Clerk) or the Lady's own free
 Deposition before the Lord Mayor of *Dublin*, re-
 ferred to in the Letter, and the cordial Concern
 expressed in these Letters for the Sufferings of
 an innocent Man.

One would have thought, that the disinterested
 Testimony of a Woman of Rank and Cha-
 racter, in a Matter that she alone could deter-
 mine, would have any where outweigh'd the
 corrupt and distorted Allegations of such a Fel-
 low as *Hamilton*: and that with every Man of
 Birth and Honour, such a Fellow would have

met with the Chastisement he deserv'd, for daring to insist on a Competition.

But if we return to the *Case*, we shall, on the contrary, find that his *Honour* Mr. *Hervey* not only resolved to abet his *poor Servant* in his Fallhoods and Forgeries, but even to *reprimand* her Ladyship for treating him in her Letters to Mr. *Hickey* in the Manner he deserved.

The Words of the *Case* here alluded to are as follow : “ Mr. *Hervey*, Master to the Plaintiff, “ having *Occasion* to *admonish* her Ladyship, as he “ did in writing, for menacing and vilifying his “ *poor Servant* in her Letters to Mr. *Hickey* ; at “ the same time that he gave her this *Reproof*, “ desired his *Friend* to shew her also the Testimony of *Leonard Toole*.”

Now I would be glad to know, what *Occasion* Mr. *Hervey* had to interpose in such a dirty Prosecution at all ? What *Excuse* he can urge for preferring *that* which is *no Testimony* at all, to the *positive* and *irreproachable Testimony* of Lady *St. Leger* ? What *Difference* he can assign between his *Admonitions* and *Reproofs*, and the *Menaces* and *Vilifyings* he charges upon her Ladyship ? And what *Colour* he can lay on the *Indecorum* he was guilty of, by taking a *Liberty* so unwarrantable ?

Her Ladyship's Words in her Letters to Mr. *Hickey*, were these : “ I shall go on Purpose, if “ you cannot punish that Fellow without my “ Appearance. I hope to make him a publick “ Example.” And let me take Leave to say, He *deserves* to be made a *publick Example* ; and that, irritated as her Ladyship had just Cause to be, in finding herself under a Constraint to take
such

such a Journey, merely to confront his Honour Mr. Hervey's Footman and Client, she could scarce express herself in milder Terms, unless she had been void of feeling.

But we have here a Confession, that Mr. Solicitor Hervey did his best to discourage, if not take off one of Mr. Hickey's most material Witnesses; and we shall find as we go on, that he tampered with almost every one of the Rest; in hope, no doubt, to over-awe Some, and to flatter Others, into such a Disposition, by the Honour he did them, in conferring and parlying with them, as might have induced them to go all Lengths on his Client's Behalf.

But to proceed: Our Case-Stater, instead of giving the very Words of her Ladyship's Answer to this Writing of Mr. Hervey's Friend, gives the following Representation of it: to wit. " Her Ladyship thought proper to be silent on the Subject of her Threats and Calumnies, by which it is plain she did not pretend to justify them." (as if such Silence could not proceed from Disdain and Contempt, which it is abundantly more reasonable to think it did.) " But she said, that the ten Guineas mentioned by Leonard Toole, must have been some other Time; not aware, that affirming now (which was her Ladyship's Expression to be another Time) was a Bull, at least, if it be nothing worse." And if a mere Inaccuracy should be all that her Ladyship is chargeable with, what a Russian must this Writer be, for heaping so many Outrages upon her, as he has done, on a contrary Supposition? For insisting on every Particle of Toole's Evidence, though so defective in its own Nature, and so ridiculously supported; and for labouring with all his Might

to establish a Belief, that nothing she can *say* or *swear* deserves Attention.

But supposing this *Particle Now* should be allowed to stand as Mr. *Solicitor* puts it, does not he know, that there is an *Argumentative Now*, and a *Relative Now*, as well as a *Now* to signify the *Instant* of *Time*? And that if we use it in the former Sense, without the Word *more* (which is the emphatical Word foisted into the Text, tho' slurred over in the Comment) the whole Edifice raised upon it, drops to the Ground at once? As thus: *Now*, has this worthless Brother of mine cost me Ten Guineas. In which Case, the said Particle might very well be supposed to *relate* to *former* Disbursements; and the Sum of Ten Guineas would imply the *whole*.

In the next Place, this *most partial* of Creatures accuses Lady *St. Leger* of *Partiality* to Mr. *Hickey*, (whom in his way he archly calls *Gentleman-Hickey*, because *Hickey* in his Letters to his Honour Mr. *Hervey*, as before specify'd, had modestly entered his Claim to the Privileges of his Birth :) He then makes bold to censure her Ladyship for having taken up her abode at Mr. *Hickey's* House, when she came to Town; tho' nothing is more common or more reasonable than for Litigants to defray the Expences of their Witnesses. "For, continues he, every Man
 " under an Impeachment of so flagitious and
 " heinous a Nature, be he Guilty, or be he In-
 " nocent, till he has purged himself of the
 " Crime whereof he stands accused, ought to
 " be under a kind of a civil or *social Excommu-*
 " *nication*" (which is flat Nonsense in *Terms*.) So that Lady *St. Leger*, tho' conscious of *Hickey's* Innocence, and having no other Business in Town
 than

than to attest it, was not at Liberty, it seems, to conduct herself according to the Tenor of her own Evidence.

But he does not confine his impotent Invectives to this Lady only : For as the Bee gathers Honey from every Plant and every Flower, he gathers Gall from every Circumstance in his way. To shew the least Countenance to Mr. *Hickey*, is sufficient to provoke his Spleen ; and a Shaft ready dipp'd in his own Venom, is immediately let fly at the obnoxious Person. Thus with a frothy Compliment in his Mouth, to a Nobleman whom he acknowledges to have as *fair* and *enviable* a Fame as any one in *Europe*, he blasts him with the same Breath, “ For having admitted this “ *Gentleman* thus indicted, to play at Cards with “ him at *Tunbridge*, to the *great Scandal* of the “ Company there.” Candid Creature ! Mr. *Hickey* is not entituled to the charitable Thoughts of the Public, because distinguished in public by Persons of Distinction : But such Persons, on the contrary, must expect to be blacken'd, for their Condescension to him. And yet this *very Nobleman*, with so *fair* and *enviable* a Fame, was at the Head of the List who appeared in the Court of *King's Bench*, to vouch for Mr. *Hickey's* Character, against the infamous Efforts of *Hamilton* and his *Solicitor*.

But there is not a Paragraph in the whole *Case*, nor scarce a Line, which upon Dissection does not appear equally rotten and corrupt. “ Now (says the *Footman*, or his *Solicitor*, in the next Paragraph, the *Argumentative Now*) “ if the “ positions of the *honest Fellow* (*Toole*) be true, “ the only Means of making the two at all of “ accord, and of reconciling to her Ladyship's

“ Conscience the good Office she has done her
 “ *Townsmen*, must be this : That Mr. *Hickey* hath
 “ returned so much of the Wages of his Iniquity,
 “ as reduces them to the Sum allowed to be re-
 “ ceived from her in his Affidavit.”

But IF *Toole*’s Depositions are *not true*, what Ex-
 pressions strong enough, can be made use of, to
 set forth the Villainy of a Man, who, on one Hand,
 lays so much Stress on the lame, partial, disjointed
 Evidence of such a Fellow as *Toole*; and on the
 other, rejects the positive Evidence of his Mistress
 Lady *St. Leger*, which was the Hinge on which
 the whole Affair turned ?

The Quaintness of his Language on this Oc-
 casion, I recommend to the Consideration of
 the Criticks. “ Be that as it may, it is *certain*,
 “ that her Ladyship’s Testimony, tho’ it *came* a
 “ great way, will not *go* a great way.” After
 which pretty Sally, this *Dare-Devil* proceeds as
 follows, “ *Hamilton* set it so much at *nought*,
 “ that rather than be harrassed by any new Ex-
 “ pences, or Delays, he declared he would take
 “ her Evidence *pro confesso*, and proceed to
 “ Trial without her.”

His Willingness to proceed to Trial, without
 her, no body will question; and what his De-
 claration out of Court would signify, any body
 may guess : But if Lady *St. Leger*’s Evidence is
 admitted, what becomes of the original Charge
 against *Hickey*, which was, that he had taken a
 Gratuity for the Release of *Pennefather* ? And if
 there was no Ground for that Charge, what Pre-
 tence can be urged to extenuate the corrupt and
 wicked Processes which have been carry’d on a-
 gainst *Hickey* since ?

Here

Here it is hoped the Reader will recollect, that the *new Expences* and *Delays* from *Term* to *Term*, so frequently complained of in the *Case*, are already accounted for by the Citations from *Lady St. Leger's Letters*; and all that need be added on that Topick, is, That the Trial was put off but twice, to wit, in *Hillary Term*, and *Easter Term* following.

And now our *Footman* or his *Solicitor*, “ Not to trouble the Reader with any thing *superfluous*, “ promises to abridge the Residue of his Matter, “ by telling him only, that Mr. *Hickey*, after “ the Release of his Prisoner, sent *Hamilton* an “ unstamp'd Bond convey'd by Letter to him “ at *Dublin*. That *Hamilton* both before and “ after this *Abuse*, wrote both to Mr. *Hickey* and “ Mr. *Bristow*, but could obtain no Answer; “ That in consequence of this extraordinary “ Treatment, (that is to say, *Hickey's* sending an “ unstamp'd Bond, and not answering *Hamilton's* “ Letters,) he was oblig'd to come again to Eng- “ land, in hopes of a more *Satisfactory Explana- “ tion* of it.” For the sake of Order, we must pass on to the next Page but one of the *Case*, where we find it said, “ That his Errand to “ Town was to express his *Dissatisfaction* with the “ said Bond, and that, in Order thereto, he re- “ paired to Mr. *Hickey*, in Company with one “ *Roberts*, a * *Substantial Tradesman* of *St. James's* “ Market, on which Occasion the *base, in- “ human* Treatment he met with, (so it is worded,) “ amounted to an Assault; Mr. *Hickey's* Con- “ fidence and Insolence carrying him so far, that “ he pretended not to know *Hamilton*, tho' it “ was now but *May*, and he had left *London* but

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“ in

* A petty Butcher in the pav'd Alley adjoining to the *Smyrna Coffee House, Pallmall*.

“ in the *Christmas-Day* preceding : That he
 “ (*Hickey*) supposed the Rogue (*Hamilton*) was
 “ come to rob him : That he bad him get out
 “ of his House, collar’d him, and threaten’d to
 “ send him to *Newgate* in Chains.”

The next Thing we are to understand is, That *Hamilton* apply’d for the *Satisfaction* he wanted another way : For, turning back to Page 15 of the *Case*, where we broke off as above, we find a Complaint of the *insupportable Reluctance* of the Gentlemen of the Law, to undertake for the Plaintiff ; not because of the Badness of the Cause, but because Mr. *Hickey* was an Attorney ; and because *Hamilton* wanted the most *essential Means* to do himself Right in *Westminster-Hall*.

Thus we have an Acknowledgment, that *Hamilton* was an *indigent* Fellow ; which confirms the utter *Improbability*, that he should come from *Dublin*, purposely to arrest a Man for Eighty Pounds, and should return as soon as he was arrested, without waiting till the *third Day*, to know the Issue of his Cause.

But our *Case-Stater* moreover adds, in Violation of his Promise, not to trouble the Reader with any thing *Superfluous*, the following arch Passage,
 “ Methinks it is very *curious* that *Hamilton* should
 “ not be at all known to *Hickey*, at a Time when
 “ Mr. *Hickey* was better known to *Hamilton* than
 “ ever he had been before.” Forgetting, that, according to *Hamilton*’s own Story, he had never seen *Hickey* above once or twice : which must either be a Falshood, or else it is no matter of *Curiosity* at all, that *Hickey* should have forgot, he had ever had such a Client.

“ This flagitious Proceeding (continues our Scribe) “ lay dormant for *some Time*,” (From
Decem-

December 1744, that is to say, to the latter End of *November 1749*) and then, truly, “having got-
 “ ten a little Money in his Pocket, he was advised
 “ to make Application to the Court of *King’s-*
 “ *Bench.*”

He then *pretends* to give the Substance of *Hamilton’s Affidavit*: I say, *pretends*, for *that* which he gives for the *Substance*, has hardly Resemblance enough to be called the *Shadow*. Having mentioned the Arrest of Mr. *Pennefather*, he proceeds in these Words, which are all without Distinction mark’d in the Margin with inverted Commas, as *Quotations* generally are; to wit: “But in the Absence of the Plaintiff
 “ (who set out for *Ireland* two Days after the Ar-
 “ rest) the said Mr. *Hickey* had taken the Liberty
 “ to discharge his Prisoner without previously
 “ consulting, or having any Authority so to do;
 “ and gave him no Account of that arbitrary
 “ Proceeding till *three Months* afterwards.”

Now, so it happens, that in the said *Affidavit* not the least Mention is made of the Plaintiff’s setting out for *Ireland* two Days after the Arrest; nor of the Account given of this arbitrary Proceeding *three Months* afterwards: On the contrary, it is therein surmis’d, that *Hamilton* had no *Account* at all of his Suit, till he came to *London* in Person. But let the *Affidavit* speak for itself.

“And this Deponent’s *Affairs* (these are the very Words) “calling this Deponent into *Ireland*,
 “ the said Defendant was in Custody of the said
 “ Sheriff at the House of one *Wilson*, one of the
 “ said Sheriff’s Officers, for this Deponent’s said
 “ Debt, when this Deponent left *London*. The
 “ Deponent further deposeth, That upon his
 “ coming to *London* some Time ago, and finding
 “ the

“ the Defendant was discharged by the said
 “ *Joseph Hickey*, he this Deponent applied to the
 “ said *Hickey*, hoping to be *paid* the said Debt
 “ according to the Promises made to this Depo-
 “ nent by the said *Hickey*.” Thus instead of
 complaining of an *unstamped Bond*; and objecting
 to such Security on that Account; the Receipt
 of such Bond is carefully *concealed*: And after
 touching on the Reception given to *Hamilton* by
Hickey (which was exactly such as his impudent
 Demand merited) the Affidavit proceeds as fol-
 lows: “ The Deponent further deposeth, that,
 “ *enquiring* into what had happened subsequent
 “ to the aforesaid Arrest, and to this Deponent’s
 “ Departure from *London* for *Ireland*, he this
 “ Deponent was credibly informed, and verily
 “ believes, that the said Defendant *Pennefather*
 “ being, as well as the said *Hickey*, a Native of
 “ *Cashel* in *Ireland*, was discharged and set at
 “ Liberty by the said *Joseph Hickey* for some
 “ Reward or Consideration, by him for that Pur-
 “ pose had or received from a Lady of great
 “ Affluence, who is a Sister of the said Defendant
 “ *Pennefather*.” And Deponent charging the
 said *Hickey* therewith, he confessed to Depo-
 nent his, the said *Hickey*, receiving such Money
 as aforesaid from the Defendant *Pennefather*’s said
 Sister, but said that the same did not surmount
 the Costs of entering the Judgment and issuing
 the said Execution against the said Defendant
Pennefather; that discharging the said *Pennefather*
 without the Deponent’s Privity or Consent, was,
 as Deponent was informed and believed, a Vio-
 lation of the Trust reposed in said *Hickey*; and
 that Deponent had not received any Part of
 his said Debt, but believed same to be lost,
 unless *Hickey* should be compell’d to pay it;
 upon

upon the whole of which a Prayer was grafted, That *Hickey* might be compell'd or obliged to do the Deponent Justice in the Premisses.

Such was *Hamilton's* Affidavit; and if it is not most notoriously misrepresented in the *Case*, let the Publick judge.

On the other hand, *Hickey* finding himself thus treacherously and cruelly attack'd, made Affidavit in his own Defence to the following Effect: That *Hamilton*, when he put the Bond and Warrant of Attorney into his Hands, said, He had no Expectation or Prospect of getting his Debt paid, or any Part of it, from the Defendant himself, who was not worth a Shilling, any otherwise than as the Defendant's Sister, Lady *St. Leger*, on his being arrested, might be induced to pay a Part, if not the whole Debt: That the said Bond and Warrant having been executed in *Ireland*, where no Stamps are used, he the said Deponent *Hickey* did cause them to be stamped here: That *Pennfather* having been arrested as above, and Lady *St. Leger* having sent for the said Deponent, he did with the utmost Faith and Integrity endeavour to prevail with Lady *St. Leger* to pay the said Debt, or some Part thereof: That her Ladyship, on the contrary, was so far from being so prevailed upon, that she represented her said Brother to the said Deponent as a Scandal to his Family, having sold his Commission, married a common Prostitute, and otherwise acted so dishonourably and unworthily, that she was determined to do no Part of what was required of her in order to his Discharge: That this Deponent did nevertheless renew and repeat his Solicitations; that in the mean time, he requested *Wilson* not to send his Prisoner to *Newgate*, which Request the

the said *Wilson* comply'd with, tho' he complain-
 ed his said Prisoner had not a Shilling to defray
 the Expence of his Accommodation: That in
 these Circumstances *Pennefather* was detained in
 Custody about a Fortnight, during which Time
 neither his Sister, nor any body else, made any
 Overture to discharge the said Debt, or any Part
 thereof: That this Deponent did from Time to
 Time inform the Plaintiff *Hamilton* of the Situa-
 tion and Circumstances of his Prisoner, and also
 of his Sister's Resolution to do nothing for him:
 That hereupon *Hamilton* did desire the Deponent
 to discharge the said *Pennefather*, or otherwise act
 as he should think proper; For that he despaired
 of getting a Shilling of the Debt, or using
 Words to that Effect. That *Wilson* growing
 uneasy under the Expence he was at in sup-
 porting the Prisoner, the Deponent did again
 wait upon Lady *St. Leger*, and did represent
 him as an Object of Compassion, as well as
 of Justice, but without Success: That hereupon
 the Deponent *Hickey* believing, that if the Pri-
 soner was sent to Goal he would probably remain
 there till he perished for Want, and considering,
 that after two Terms the Plaintiff would either
 be obliged to pay him Two Shillings and Four-
 pence a Week, or in default thereof, the De-
 fendant would be entituled to a Superfedeas, in
 which Case the Plaintiff would be in a worse Con-
 dition than ever; he the said Deponent, did
 therefore, in Pursuance of the Power given him
 by the Plaintiff aforesaid, and under a Persuasion
 that it was for his the said Plaintiff's Interest,
 discharge the said Prisoner out of Custody: That
 after he was so discharged, the Deponent took a
 fresh Bond and Warrant of Attorney, to confess
 Judg-

Judgment thereon, either in *England* or *Ireland*, for the said *Eighty Pounds* and *Interest*, which said fresh Bond and Warrant he did afterwards give to the said Plaintiff, who had made no sort of Objection thereto, nor to the Defendant's having discharged *Pennefather*; as well knowing, that what the Deponent had done, he had done in the last Resort: That on representing to Lady *St. Leger*, the Unreasonableness of suffering the Defendant to be at any Expence on Account of this Affair; she did thereupon pay *Two Guineas* to the said Deponent, on Account of Costs out of Pocket, and upon no other Account whatsoever; one Guinea whereof the said Deponent gave to *Wilson* for executing the Writ, and the other he kept for Payment of the Expence of *Stamping the Bond and Warrant of Attorney, entering the Judgment, taking out Execution and Warrant thereupon, and for the Stamps of the said fresh Bond and Warrant of Attorney*: That the said Deponent received no more than the said *Two Guineas*, nor any other Sum or Sums of Money, or Gratuity of any sort whatsoever from the Defendant's Sister, or any other Person whatsoever, for discharging him: That on the contrary, he discharged him for the Considerations beforemention'd, having first communicated every thing to *Bristow*, who recommended *Hamilton*, who was Witness to the Direction given by *Hamilton* to the Deponent as aforesaid, and who did advise him, on his Behalf, to discharge the said Prisoner: That the said Deponent was so moved with the wretched Circumstances of the said *Pennefather*, at the Time of his Discharge, that he gave him half a Guinea out of Charity: That the said *Pennefather* soon after enlisted himself in the Guards: And lastly,

that in about a Year or two afterwards, the Plaintiff *Hamilton* did apply to the Deponent, and did charge him with having received a Gratuity for the Discharge of the said *Pennefather*, at which he the Deponent was so much offended, as being conscious of his own upright Behaviour, that he did cause him to be turned out of his Doors."

To this Affidavit of *Hickey's*, was subjoined two Affidavits more: The First *Bristow's*, the Last *Wilson's*.

Bristow having confirmed all the Circumstances specified in relation to the Manner of *Hamilton's* being introduced to *Hickey*, deposes farther, That *Hamilton* staid in Town till he was satisfied the Friends, Relations, and Sister of the Prisoner, would do nothing towards his Discharge, as *Hamilton* himself informed *Bristow*: That the said *Hamilton* having also informed the said Deponent he had some Call or Business to *Ireland*, he the said Deponent did accompany the said *Hamilton* to *Hickey's*, where he the said *Hamilton* did, in the Presence of the said Deponent, leave the Affair entirely to the said *Hickey*, to act therein as he should judge proper; and to his best Recollection did farther desire the said *Hickey* to discharge the said *Pennefather* out of Custody, for the like Reasons and Considerations set forth above, &c.

Lastly, *Wilson* also deposed, That he had *Pennefather* in his Custody a Fortnight or thereabouts, during which Time he made several Applications to Lady *St. Leger* in his Behalf, without Effect, and the said *Pennefather* had nothing to subsist upon, but what the Deponent gave him out of Compassion, and the charitable Benefactions of others: And that being at last determined

mined to take the said *Pennefather* to *Newgate*, as also calling upon Mr. *Hickey* to acquaint him therewith, the said *Hickey* informed him he had Directions from the Plaintiff to do in the Affair as he thought fit; and that there being no Prospect of Payment, he did discharge him, &c.

This is the Substance of the three Affidavits; and now we must return to the *Case*, in which it is said, That Mr. *Hickey* acquitted himself by three other *Falsehoods* to which he has *sworn*. I will give them all in the very Words of the *Case*, and answer them as I go.

“ First, he says, in order not to have his Client worse than he found him, he took a fresh Bond not only for the Principal, but the Interest also due upon the old one, whereas it is for the Principal also.”

The Words of the Affidavit are These, as given above in *Italicks*, for the said *Eighty Pounds* and *Interest*: And the said *Hickey* does aver, That to the best of his Remembrance, the Bond is answerable thereto; and if there is any Defect in this Article, it amounts to no more than the Omission of a few Days Interest.*

“ Secondly, he swears, that he gave this Bond to *Hamilton*, who at that Time made no Objection to it: Whereas, it was sent to *Ireland* in a Letter, as by that Letter appears; and *Hamilton* returned as soon as possible he could, to express his *Dissatisfaction therewith*.”

I might ask, Why this Letter is not printed? And I might answer, That the Reason why it is

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not,

* The Bond executed in *Ireland*, was for 8*ol. Irish*, which is after the Rate of 8 and $\frac{1}{3}$ per Cent. less than 8*ol. English*: But in the Bond executed by *Pennefather* in *London*, neither *English* nor *Irish* Money is particularly specify'd. So that if the Debt were recovered in *England*, *Hamilton* must be a considerable Gainer.

not, certainly is, That it contains such Matter as tends manifestly to the Justification of *Hickey*. But this Article is so extremely frivolous and impertinent, that it does not deserve the least Notice: The Difference between *giving* and *sending* a Thing where the *Receipt* is acknowledged, being none in *Fact*, whatever it may be in *Terms*.

“ Thirdly, he swears (’tis lucky for him that it is written Evidence or he must have been cruelly out of Breath) “ Thirdly, I say, he swears, That “ he received only Two Guineas of Lady *St. Leger*, one of which he gave *Wilson* the Bailiff for executing the Writ, and the other “ Guinea went for Payment of the Expence of “ stamping the Bond and Warrant of Attorney; “ neither of which has a Stamp on it to this “ Day.”

Here, for the Sake of Aggravation, the *Stater* wilfully falsifies the Letter of the Affidavit again; for the Passage runs in the same Expressions given above, which relate to several Items besides Stamps. But this is the Sheet-Anchor of their *Cause*, and it behoves the *Joint-Adventurers, Master and Man*, to make the most of it.

Admitting, however, that the Bond is *not* stamp’d, which to *this Day* Mr. *Hickey* has no other Evidence of, than is contained in the Assertions of his Enemies, let us observe as we go. First, That the Bond and Warrant of Attorney which came from *Ireland* *unstamp’d*, and upon which *Pennefather* was arrested, *Hickey* caused to be previously stamp’d: A Circumstance which neither the *Footman* nor his *honorable Solicitor* is ingenuous enough to own: And, secondly, That the Bond being sent to *Ireland*, where, as before specified, Stamps are not in use; and whither it was

presumable *Pennefather* would withdraw himself, as all his Relations who were Persons of Condition, resided there ; in which Case the Bond would have been as sufficient as if it had been enforced by all the Stamps in the Stamp-Office.

But I will take no Advantage of this Consideration : As the Bond was issuable in *England* as well as *Ireland*, it ought to have been stamp'd ; and if it had not been left to an idle, profligate Clerk, (one *John Taylor*) it would have been stamp'd : *Hickey* had given the Orders, as usual on the like Occasions, and did believe they had been regularly observ'd ; which Belief did certainly authorise him to insert that Circumstance in his Affidavit : But this *Taylor*, who had an unlimited Credit with *Hickey's* Stationer *John Paddon*, who lives in *Lincoln's-Inn*, as the said *Paddon* is ready to attest, us'd to take up the Stamps requir'd in his Master's Business ; and instead of applying them to his Service, feloniously sell them for his own Profit. This, and other such like Frauds and Villainies, were afterwards proved upon him, and he was not only discharged from his Service with Ignominy, but advertised by his said Master in the public News Papers : Some time after which he was hang'd.

And this being the naked Fact, it is beyond Controversy true, that the Imputation grounded upon it against Mr. *Hickey* had no other Foundation than the Treachery and Roguery of a corrupt and wicked Servant . For what Man of any Character, or even Discretion, not to mention Principle, would for the sake of Eighteen-pence have exposed himself to the Danger, Apprehension or Pain of a Detection ; or, having committed such a low Piece of Knavery, would have knowingly
 sworn

sworn the contrary, when the Means was in the Prosecutor's own Hands of proving him perjur'd ?

And yet our *Adventurers* proceed to say :
 “ As to the stamping of the Bond, we will shew
 “ the Reader, that this is as manifest a *Perjury*, as
 “ a Man can possibly be guilty of, in the Nature of
 “ Things. For, supposing, tho' we are far from
 “ allowing that *Mistake* or *Oversight* may be plead-
 “ ed, when a Person is swearing to his own *Act*
 “ and *Deed* ; yet Mr. *Hickey* is without this Re-
 “ fuge. This honest *Gentleman* has made his
 “ Oath, since *Hamilton* complained of his new
 “ Security ; and made appear that the Bond was
 “ without Stamps !

Can these Creatures blush ? The Act and Deed sworn to, was not Mr. *Hickey's* own Act and Deed, but his *Clerk's* ? And can any thing more clearly demonstrate the Malice and Wickedness of these Persecutors, than their alledging so notorious a Falshood ; *Hamilton* was so far from complaining of his new Security, or making it appear, that the Bond was without Stamps, that in his Affidavit, he seems industriously to conceal, the having received any new Security at all, and consequently did not, nor could, found any such Complaints upon it.

Our *Adventurers* in the next Place tell us :
 “ That Mr. *Hickey's* Lust of Swearing being not
 “ yet appeased (so that even to swear the Truth
 “ in a Man's own Defence, is in this Cause made
 “ Matter of Reproach) “ he gave the Court a
 “ Make-Weight of an Oath or two more. He
 “ swears (continue They) that *Hamilton* being
 “ convinced by his Representations (which we
 “ have partly proved to have been never made)
 “ of the Improbability of obtaining any thing
 “ of

“ of Lady *St. Leger* ; he came to him at last, to
 “ give him discretionary Powers to act for him
 “ as he thought fit (which by the way, are un-
 derstood to be lodg’d in every Attorney, by
 virtue of his Commission or Warrant) “ and if
 “ he pleased, to discharge Mr. *Pennefather* out
 “ of Custody. His worthy Friend Mr. *Bristow*
 “ attests, upon Oath, too, that he was Witness
 “ to the Directions given by the Plaintiff to Mr.
 “ *Hickey* ; though HE (the PLAINTIFF must be
 “ understood) SWEARS HE had never seen *Hickey*
 “ and *Bristow* together in all his Life.” I can-
 not pass on to the rest of this Section, without
 setting a proper Brand on this last Passage ; for
 here the Wickedness of the *Solicitor*, exceeds the
 Wickedness of his *Client* : *Hamilton* swears no
 such Thing, at least in his Affidavit before the
Kings-Bench ; and it is happy for him he did not :
 For had he sworn as is here suggested, the Crime
 charged on *Hickey*, would have been proved on
 him ; for, as it happened, one of *Bristow*’s Ser-
 vants was shaving *Hickey*, when his Master and
Hamilton came in together ; which he is ready to
 depose when called upon.

And now for the rest of the Section : “ If the
 “ Reader attended closely to the Evidence of
 “ Mr. *Ward* he will recollect that is impossible
 “ he should at that Time: For these Occurrences
 “ are mentioned in their respective Affidavits, as
 “ subsequent to poor Mr. *Hickey*’s tiresome Ne-
 “ gotiations with Lady *St. Leger*, which lasted
 “ a Fortnight. Now, half of this Fortnight
 “ *Hamilton* unfortunately proves he was in *Dublin*,
 “ and the other Part of it on the Road thi-
 “ ther.

But

But I have already signify'd, That nothing can be infer'd from this pretended *Evidence of Ward's*, so much insisted upon, as it was impossible for him to have a personal Knowledge of *Hamilton* and *Hickey's* Affair, because he was no Party in it: Whereas, *Bristow* on the contrary swore to what he saw and heard; and being himself a reputable Person, and no way interested in the Cause, deserves as much Credit as is due to any Man in the like Circumstances whatsoever: Nor will any Man from henceforth care to be a Witness, if those affected by his Testimony are at Liberty to asperse him with Impunity, in the Manner that Mr. *Bristow* has been aspersed by the Conspirators against *Hickey*; and the same iniquitous Means which have been made use of to blast Mr. *Bristow*, may with equal Reason and Justice be made use of against any Body.

There is, besides, the utmost Perverseness and Wickedness in stating these Occurrences at the *End of the Fortnight*: For it is admitted on all hands that at the *Fortnight's* End *Pennefather* was discharged; as also that he was not *discharged* when *Hamilton* set out on his Return to *Ireland*: They must, therefore, have happened in the *Beginning* of the Fortnight. And if *Hamilton* was convinced that nothing was to be obtain'd by his Suit, it is immaterial whether that Conviction took Place sooner or later.

But in order to clear all Doubts on this Head, Lady *St. Leger* has declared, and would have deposed in Case of Tryal, that, while her Brother was in Custody, *Hamilton* himself did wait upon her, in order to represent how wretchedly poor he the said *Hamilton* was, and that he had not a Far-thing

thing to carry him back to *Ireland*, whither he intended to set out the next Morning ; and that she gave him half a Guinea on these Considerations : He promising at the same Time, That he would trouble her Brother *no more* : Which proves to Demonstration, that *Hamilton* was appriz'd of every Step which had been taken ; and that he actually went to *Ireland*, in utter Despair of ever obtaining another Shilling.

And now, if it should be asked, What was become of *Pennefather* all this while ? The Answer is short. He had been dead about a Year before this Suit was commenced ; having first been discharged out of the Guards (amongst whom he had enlisted as a private Man the Day he was releas'd out of Custody) and having taken Refuge on Board a Privateer.

This was a Circumstance extremely favourable to the *Practice* in Hand ; and that it might be conducted in a Manner suitable, it was put into the Hands of the *Macgraths*, so famous for their *Causes* ; and also, for their *Sufferings* ; which might have convinced our *Adventurers*, That instead of there being no Law for a Lawyer, the Law is never more severe than upon such as are a Disgrace to the Profession.

But the Issue was not answerable to their laudable Endeavours. For, as it modestly stands in the *Case*, “ These groundless Affirmations passing
“ for so many Truths, the Court discharged their
“ Rule, and the Plaintiff was to pay One Guinea
“ Costs.” Which last Circumstance (for this *Brace of Worthies* disguise every thing which passes thro’ their Hands) deserves a short Explanation. The Defendant *Hickey* was at first allowed *Costs* without any such Restriction ; But *Hamilton’s* Counsel
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urging

urging in Mitigation, That he was poor, being but a Livery-Servant, the former Award was reduced to a Guinea, as an Act of Mercy; and even this Guinea (which they have also forgot to acknowledge) was never paid nor demanded: Besides which, the said *Hamilton* is still indebted to Mr. *Hickey*, to the Amount of Three Guineas more.

But tho' foil'd in this Effort, They were not ashamed to make a new one of a more daring and atrocious kind than the Former: They had still a *substantial Satisfaction* in view; and None were better versed than the *Macgraths* in the Arts of making Men *come down*; which, it seems, is the Cant Phrase to signify the raising Contributions from such as are tender of their Characters, and fearful even to have them brought into Question. — *Hickey* was known to have these prudential Scruples about him; and stood upon such good Terms with his Neighbours, his Friends, his Clients, and the World in general, that it was worth his while to indulge them.

On these Grounds, with these Views, and by these scandalous Implements, *Hickey's* Affidavit before given in Abstract was put to the Torture, in order to force such Matter out of it, as might serve by way of Pretence to prosecute him for Perjury.

A Bill of Indictment was accordingly exhibited against Mr. *Hickey*, and upon the Testimonies of *Roberts* the Butcher, and *Ward* the Butler, (whose Names as Witnesses, might as well be supplied by *John o'Nokes* and *Tom o'Stiles*) found by the Grand Jury.

And here ensues a Paragraph in the *Case*, which deserving more than ordinary Attention, must be given *verbatim*. “ A

“ A few Days before the Trial was to come
 “ on, conscious Mr. *Hickey* wrote a *second* Letter
 “ to Mr. *Hervey* ; (tho’ he denied that he ever
 “ wrote to him) [*which is false*] upon which, by
 “ the Interposition of Mr. *Walter*, a *Negotiation*
 “ was set on Foot, for *compromising* Matters ;
 “ which *Hamilton* was the more inclined to listen
 “ to, on Account, as he was told, of a *Flaw*
 “ there was in the Indictment. However, he
 “ was again ensnared by Mr. *Hickey*, who, after
 “ hinting at some Terms of Accommodation,
 “ *insidiously* forbore to give his final Answer, till
 “ between eleven and twelve o’Clock on *Sunday*
 “ Night ; and the Trial was to come on at ten the
 “ next Morning : So that it was *impracticable* for
 “ the Prosecutor to be prepared for the Litiga-
 “ tion of it. By his Non-appearance Mr. *Hickey*
 “ was of course acquitted.

Now would not any one think, that this second
 Letter of Mr. *Hickey* to his Honour Mr. *Hervey*,
 was to solicit a Compromise ? Whereas both the
 one and the other arose from the real Anguish
 which an honest Man could not help feeling on
 so shocking an Occasion ; and had no other
 Drift or Tendency, than to beseech Mr. *Hervey*
 in the most earnest Manner, to give Mr. *Hickey*
 a *Hearing*, which he believed was all that was
 necessary to disabuse him on one Hand, and to
 convince him on the other, that he had not only
 acted with the utmost Uprightness in his Servant’s
 Cause (which he had undertaken on a Principle
 of Charity, not for any Profit) but also, that
 he was so much a Man of Principle, that no Con-
 sideration could have induced him to be guilty
 of the Crime laid to his Charge.

But Mr. *Hervey* (tho' so rigid an Advocate for rigid Justice) had made up his Mind, it seems, with one *Half* of the *Cause*, and for that Reason refused to hear the other.

Most Men indeed, are better disposed to *teach* than *bear* : And what the Disposition of the Parties in this Case was, may be collected from the Correction which follows of the Misrepresentation given above, of what pass'd between Mr. *Walter* and Mr. *Hickey*.

Mr. *Hickey* had taken the Liberty to complain to Mr. *Walter* of the ill Treatment he had received from his Honour Mr. *Hervey* : Mr. *Walter* said he was well acquainted with him ; and candidly undertook to set him right in Mr. *Hervey's* Opinion ; He, Mr. *Walter*, having employed *Hickey* in his Profession, and having been punctually and faithfully served by him.

Mr. *Walter* accordingly went to Mr. *Hervey* on the *Friday* before the Cause was to come on. What pass'd between them, Mr. *Hickey* is wholly a Stranger to. On *Saturday* Morning Mr. *Walter* went out of Town. At his Return on *Sunday* Night he found a Letter from Mr. *Hervey* : The same Night he sent for *Hickey* to the *Cardigan-Head* Tavern ; where, in the Presence of Lord *B—n* he (Mr. *Walter*) read the said Letter to *Hickey* : The Contents of which were, That if thirty Guineas could be squeezed out of *Hickey* for his poor Servant, the Prosecution should be stopp'd. *Hickey* rejected this Proposition with Disdain and Contempt, in the said Lord's Presence. Mr. *Walter* thereupon was pleased to say, He would send an Answer in *Hickey's* own Words ; *Hickey* did accordingly dictate an Answer. This Answer, it must be supposed, is still in his Honour Mr. *Hervey's* Custody ; and as the Petulancy and Presumption of the notable *Solicitor* in this Cause has

has brought it before the Public, the Public has a Right to complain of the *Suppression* of these *Two Papers*, which make so *material* a Part of the Evidence with Relation to this *pretended Negotiation* for a *Compromise*.

It appears, however, from this plain Narration, that Mr. *Hickey* could not send an Answer sooner than he did send an Answer: And as to the *Impracticability* of proceeding to Tryal upon that Account, it is the falsest, foolishest, and most impertinent Plea that ever was made: For granting a Treaty of Compromise was on Foot, which was far from being the Case, was it not in their Power to collect their Evidence notwithstanding? Is it not the usual Course of Business to be in Readiness for all Adventures? And was it ever known, that any Litigant before rested his Cause on the Courtesy of his Adversary?

But I have a better Way of accounting for this *Non-appearance*; and must take Leave to account for it accordingly. While the Indictment was preparing at an Ale-House, one Mr. *Stapleton* happened to come in, who being asked by one of the *Macgraths*, If he knew Mr. *Hickey*, and answering in the Affirmative, the said *Macgrath* proceeded to express himself to the following Effect: "We are going to indict him for Perjury; and you would do well to advise him, to make it up with us, which he may do for Ten Guineas." At which Instant the other *Macgrath* coming in, and over-hearing what was said, mended the Bill as follows; "You are a Block-head! You should not have asked less than Twenty Guineas." This, Mr. *Stapleton* appeared in Court to attest, on the Day the Trial was to have come on: The *Macgraths* were also there, and continued there till the very Instant of Hear-

ing : But then disappeared at once.—No doubt confounded at the Sight of a Man, who had so flagrant a Circumstance to charge against them.

Our *Adventurers* forgetting their former Promise, not to trouble the Reader with any thing superfluous, nextscrape together every *make-weight* Circumstance they can press into the Service, by any Violence whatsoever.

Thus a wholesome Reproof given to *Ward* by Mr. *Bristow*, is represented as an Attempt to frighten *Hamilton* from *pursuing his Vengeance any farther* : These are the Words of the *Case*. And in farther Proof of what has been insisted on before, That his Honour Mr. *Hervey* had, in some Shape or other, tampered with every one of *Hickey's* principal Witnesses, the next Paragraph of the said *Case*, is fit to be inserted ; which is as follows : “ After this audacious Assertion” (*Viz.* That no body had appeared on *Hamilton's* Behalf, but a Parcel of Scoundrels and Pickpockets, &c.) “ the Reader will scarce believe, that the *Plaintiff's Master* had been with this dauntless Hero not long before, to express his *Resentment* of the Injury done to his Servant, and to assure him, That if there were any Law in the Kingdom it should not go unredeffed.”

But if his Honour Mr. *Hervey* was something indiscreet in acknowledging he *swagger'd* thus to Mr. *Bristow*, he was nevertheless discreet enough to suppress what followed upon it. For if he did swagger at Mr. *Bristow* in the Manner here represented, it had none of the desired Effect : Mr. *Bristow* on the contrary, justified both Mr. *Hickey* and himself in so full and clear a Manner, That his

his *Honour* departed with these Words in his Mouth: *Then has Hamilton deceived me.*

I might follow our *Adventurers* thorough their whole Maze, and have the like Advantage over them at every Turn and Double they make.—But as I said before, I am weary of hunting such Vermin: And the *Minutiæ* which make up the *Farrago* contained in several of their subsequent Pages, no otherwise deserve Notice than as they serve to prove that Mr. *Hickey* was not only a Man of *Character*, but that he was so represented to Mr. *Hervey*: That, however outrageously his *Honour*, in Quality of *Solicitor* to his *poor Servant*, had stated his Case to the Lawyers he consulted, the Majority were no sooner appriz'd of the *Truth*, than they advised him to proceed no farther in it: That this Advice of theirs, instead of convincing him, only furnished him with Pretences to abuse his Advisers: And that the better Character Mr. *Hickey* appeared to have, the more resolute he became to deprive him of it if possible, by any means whatsoever, as will be yet further verify'd from the Words of the *Case* itself.

But there is one particular Passage which I cannot pass over: For Fear, as in Lady *St. Leger's* Case, what was in Truth the Effect of Scorn should be called the Effect of Consciousness.

This Passage is as follows: “ Another Gentleman of the same Rank in the Law, (Counsel for the Plaintiff in the Outset of the Cause!) desired Mr. *Plummer* to let Mr. *Hervey* know, that this Thing *did* not appear to *him*, so bad as he made it; and that his Client, Mr. *Hickey*, was still ready to do every Thing a Man of *Honour* ought to do. Tho' the Reader will perceive in this Message, such a gross Abuse
“ and

“ and Misapplication of Terms, as utterly con-
 “ founds, and burlesques, all the ordinary Ideas
 “ annex’d to them ; yet we very well understood
 “ what was imply’d in the latter Part of it :
 “ Which was, that if we cou’d be brought again
 “ to listen to Terms of Accommodation, they were
 “ to be had. But as the *Brazen Head* is record-
 “ ed to have told Friar Bacon, *Time’s past*. And
 “ indeed, nothing but a brazen Face, cou’d sup-
 “ pose that it was not so.”

I have given the whole of this Section, that
 his *Honour* might have no Pretence to object,
 that in omitting his *Witticisms*, I had spoiled his
Arguments. But after making so free with his
 own Council by Name, why is his *Honour* so loath
 to name one of Mr. *Hickey’s* ? Mr. *Hickey* never
 authorized any Person whatsoever to send any
 Message whatsoever to Mr. *Hervey* that would
 admit any such Interpretation : One of the *Mac-*
graths would have wav’d the Trial for *Ten Guineas*,
 the other for *Twenty*, and Mr. *Hervey* himself
 for *Thirty*. If, therefore, *Hickey* had entertained
 Thoughts of purchasing an Accommodation, he
 would, no doubt, have drove the Bargain at first :
 And if he had no such Thoughts, as it is evident he
 had not, it may be presum’d, that whatever was
 said for him as a Man of *Honour*, he would in the
 most *honourable* Manner have made good.

But granting that Mr. *Plummer* had brought
 such a Message to Mr. *Hervey* in the Name of
 one of *Hickey’s* Council, as would have borne such
 an Interpretation, does it follow that *Hickey* promp-
 ted such a Message ? Mr. *Plummer*, and his Asso-
 ciate, *Marshalsea-Court Attorneys*, were recommend-
 ed to his *Honour* by the *Macgraths*, and the Reso-
 lution and Probity of the Former in doing his
 Duty,

Duty, so signally acknowledged in the *Case*, might possibly be the Effects of *Rejement*. Mr. *Plummer* had received a Reprimand in Writing from Mr. *Hickey*, for Errors in Practice; and if he did not flatter his *own Passions* in forwarding Propositions of the Nature above expressed, he certainly did *those* of Mr. *Hervey*: For, as before remarked, he had no Ears for any thing that did not favour *Prosecution* or *Composition*: And upon the whole, nothing can be imagined more ridiculous, than *Hamilton's* own Council to caution him against a Trial for fear of ugly Consequences to himself; and for *Hickey's* to propose an *Accommodation* from the same Principle of *Tendernefs* to his Client.

It is now Time to come to the second Day of Tryal: For a second Bill of *Indictment* had been found at the *Old-Bailey*; and it is acknowledged in the *Case*, that for Fear the Defendant, *Hickey*, should have any Advantage over the Plaintiff *Hamilton*, he was at the Charge of removing his Cause by *Certiorari* into the *King's-Bench*.

On the Hardship of a Man's being indicted twice on the same Accusation, or of the many express Provisions in our Laws against it, I will not insist, because Mr. *Hickey* never intended to take the Advantage of any of them.

And as the Averments in the said Indictment (which were in number Seven, to wit: That *Hickey* did not inform *Hamilton* from Time to Time of the Situation and Circumstances of *Pennefather* while in Custody. 2. That *Hickey* did not inform *Hamilton*, that Lady *St. Leger* refused to contribute any thing towards his Discharge. 3. That *Hamilton* did not at any Time desire *Hickey* to discharge *Pennefather*. 4. That he never did desire *Hickey* to act in the Affair as he

should think proper. 5. That *Hickey* never did GIVE *Hamilton* the fresh Bond or Warrant of Attorney. 6. That *Hickey* did receive from Lady *St. Leger* a much larger Sum than Two Guineas. 7. That *Hickey* did not expend any Sum of Money for stamping the fresh Bond and Warrant of Attorney.) I say, as to these Averments, so much has already been said concerning them, that in this Place I shall only add, That the first Four were incapable of Proof (unless a Negative can be proved) and could be no otherwise supported, than by the Prosecutor's own Assertions, which in his own Cause, and against *positive Evidence* to the contrary, were of no Validity : That the Fifth, which was Negative also, his Honour the *Solicitor* (tho' such an Enemy professed to the *Quirks* and *Subterfuges* of the Law) design'd to vouch, by proving positively, That the fresh Bond and Warrant said to be GIVEN, were SENT ; without once thinking of *Hamilton's* Affidavit, which is calculated, from Beginning to End, to establish a Belief in the Court, That *Hamilton* had received no such fresh Security at all. That the Sixth, which was the only Point that could materially affect *Hickey*, Lady *St. Leger* herself would have refuted : That for the Omission of Stamps, a perfidious Clerk was the only Person answerable ; and that under the Weight of this *flagitious Charge*, Mr. *Hickey* had the Honour and the Happiness to be supported by no less than twenty-nine Persons, many of them of Quality and Distinction, all of them of Circumstances and Character : Not to mention several others whom he had not apply'd to, and who nevertheless attended of their own Accord to shew how widely their Sentiments of Mr. *Hickey* differed from those of Mr. *Hervey* ; and how
utterly

utterly improbable it was, that a Man so generally esteemed and confided in, should be guilty of any one Article laid to his Charge.

What remains, is to add a Word or two concerning the Event of that Day, which we have been told in the *Footman's Letter*, will be an eternal Reproach both to the Law and the Professors of it.

The Day, then, was the 11th of *July 1751*, The Place of Trial was *Guild-hall*: The Lord Chief Justice *Lee* was on the Bench: The Council for the Prosecutors were Sir *Thomas Bootle*, Sir *Richard Lloyd*, Mr. *Bathurst*, Mr. *Henley*, and Mr. *Benney*; and the Council for *Hickey* were Mr. *Hume Campbell*, Mr. *Ford*, Mr. *Pratt*, and Mr. *Lawson*: All Men of Rank and Eminence in their Profession.

But in our Way to the Event of this Day some preparatory Circumstances set forth in the *Case*, must first be touched upon.

It is there said: "That Sir *Thomas Bootle*,
 " being come into Court, took Mr. *Hervey* aside
 " to tell him, that this *Fellow* might very probably
 " be acquitted; and if he were so, as Mr. *Hervey*
 " was *supposed* (he might have said *known*) to
 " have been the *Promoter* and *Conductor* of the
 " Prosecution, that it would be Matter of Re-
 " proach to him, and moreover, that he would
 " be liable to an Action of Damages.

I will not pursue this Interlude to the End, because This is enough for Mr. *Hickey*: And the only Remark I shall here make upon it is This: That according to the Manner in which it is open'd, one would think it no other than a Parley between *Two Persons* only: But when Mr. *Hervey* was to give his Answer, (which is called a *neutral kind* of Answer to this *pretended Difficulty*)

culty) we find ALL his Council were present at it. For these are the Words that follow: " By this means, he neither let these *Gentlemen* know, that he discern'd what *they* would be at; nor did he warrant *them* in what he foresaw *they* were determined to do." And again afterwards he added, " But why do you ask me what you shall do? I am not to govern your Proceedings; and referred *them* to the Prosecutor, upon this *they* ALL went into Court."

Thus tho' Sir Tho. Bootle is represented as the only Spokesman, it is nevertheless admitted that ALL gave into his Opinion.

And tho' great Pains are taken to persuade us to the contrary, we shall presently be furnish'd with Evidence, even from the *Case* itself, that his Honour Mr. Hervey gave into the *same Opinion* too.

We must not however omit the Remainder of that Section of the *Case*, last quoted, which runs in these Words. " But *Hamilton* being just stept out of it (the Court) to get his Witnesses together; I will take this *Opportunity* to let the Reader know what passed in Mr. *Hervey's* Thoughts at this Time. He TELLS me, that he knew his *Servant's Mind* as well as he did his own; (as appears indeed by the Sequel.) He knew of course the Difficulties in which these *Gentlemen* (Still in the PLURAL) would soon involve Themselves; and that *in the same Net which they hid privily, their Feet would be taken.* He foresaw that the laying of his *Servant's Case* before the *Publick*, would not only be a worse Thing for Mr. *Hickey* than an immediate Trial; but that by taking these Occurrences into the Story, the *Behaviour* of his (Mr. *Hervey*) Council would make a pretty Episode in it."

Thus we have the Proof before promis'd, out of his *Honour* the Solicitor's own Mouth, of a Mind not to be match'd for Malice, Rancour, and Self-conceit, to say nothing of that insatiable Thirst of *Pettyfogging*, which rages thorough the whole Proceeding: Impatient of Contradiction, incapable of Conviction, and the more visibly in the Wrong, the more obstinately bent, never to be in the Right !

If the Lawyers he consulted did not adopt all his Chimæras, and fortify all his Prejudices, their Concern for the *Craft* were their Inducements to reject the Cause : If Any, misled by his Misrepresentations, did adopt them, they were so long good Lawyers: But if, tho' better inform'd, they refused to go all Lengths in his Service, they were no Lawyers at all : According to his Account, his two *Marshalsea-Men* ought to be set at the Head of the Profession : And having been defeated in his Purpose to make the Laws the Instruments of his Vengeance upon an innocent Man, who refused to pay such a Fine as he thought fit to lay upon him, he labours hard to convince us, That we had better be without any Laws at all.

These are Points that glare in both his Books: And if we should follow him through every By-way that he has taken, in the Course of this Prosecution, we should find him abusing Mr. *Hickey* in all Companies, writing Letters to his Clients to deprive him of his Business, declaring he would convict him first, and then not only fishing in every dirty Corner for Evidence, but having repeated Interviews with *Macgrath*, to prepare and concert the Means.

All which being most notoriously true, I say again, let the Public judge, who deserves most

to be the Outcast of Society, the Persecutor, *Hervey*,
—or the Persecuted, *Hickey*.

But tho' I have been forc'd to make this personal Digression in this Place, I have not as yet done with the *Case* ; which is continued in these Words :

“ *Hamilton* being come again into Court, and
“ having placed himself *behind* his Master ; Sir
“ *Thomas Bootle*, after signifying to him, That an
“ *Accommodation* had been propos'd between him
“ and Mr. *Hickey*, by which they were mutually
“ to acquit each other ; ask'd him, *What are*
“ *we to do ?* *Hamilton* express'd his Disapproba-
“ tion of the Measure, by ordering him to pro-
“ ceed : Sir *Thomas Bootle* reply'd with a super-
“ cilious Vehemence, *What, Sir, will you opi-*
“ *niate this Thing, when your Master is satisfy'd*
“ *with it ? Methinks you betray your Country.*—
“ His Master by the Bye, was as much *dissatis-*
“ *fied* with it, as with any thing that had ever
“ befallen him in his Life.”

There is no body I believe who does not, at the first Glance, discover the Abuse so quaintly endeavour'd to be conceal'd in the two Words *satisfy'd* and *dissatisfy'd*, in this Passage. What Sir *Thomas* in open Court, and to Mr. *Hervey's* Face, meant to assert, was, That he, Mr. *Hervey*, had acquiesc'd in a Proposal for an Accommodation, if it could be obtained ; not that he was *pleased* with it : And the Word *dissatisfy'd*, does not mean, that Mr. *Hervey* had *not* so acquiesc'd, but that he was *displeased* at the Necessity of submitting to better Judgments than his own : And in whatever Sense Mr. *Hervey* was *dissatisfy'd*, if he did not express his *Dissatisfaction* *then* ; his Abuse of Terms will have no Weight with the Public *now*.

But, in the Name of *God*, how comes his *Honour* the Solicitor to make Sir *Thomas Bootle* say,
 “ An Accommodation had been proposed between him and Mr. *Hickey*, by which they were mutually to acquit each other ?” Daring as he is, has he dared to say, that either Mr. *Hickey* or any of his Council, were present at the Parley abovementioned ; and if absent, as they certainly were, what Pretence is there to suggest, That the two Parties were mutually to acquit each other ?

But Disingenuities are the least Offences that we have to complain of ; and we are at last hastening to the Issue ; for which Reason I will first give the Sequel of the *Case* (I mean the *narrative*, not the *invective* Part of it) and then conclude my own Comment in the Lump.

The Sequel then stands thus :

“ We will proceed to let the Reader know, what farther pass’d in Court, by telling him that after this Fulmination of Sir *Thomas Bootle’s* to his *Client* ; Mr. *Campbell* also cried out, from the other Side, that he hoped Mr. *Hervey* saw now the Temper and Character of his Servant ! To which Mr. *Hervey* replied, with some Warmth, that he very well knew the Character of his Servant, and that no body deserved a better. *Hamilton* was so invulnerable in this Part, that he was appealing to Lady *St. Leger* for his good Name : But his good Friend Sir *Thomas Bootle* held up his Hand, and hush’d him. Sir *Thomas*, it may be, perceiving the Voice to come from one of his own Party, took a Breach of Silence, to be a Breach of Faith. Mr. *Henley*, who by all Accounts was very much scandalized at this Proceeding, took the Liberty to tell Sir *Thomas*, that he should not have interrupted him, for he

“ was

“ was saying no Harm; that he was only speak-
 “ ing to the Vindication of his *Fame*. Mr. *Her-*
 “ *vey* also took this Occasion to look up to his
 “ Servant, and tell him, *that it was to no Pur-*
 “ *pose to say anyThing, that he might perceive THEY*
 “ *were resolved not to try him.* And in this loose,
 “ clumsy, unprecedented Manner, did the *respec-*
 “ *tive Advocates* Arbitrarily conclude a Treaty,
 “ wherein the Person, who was *Principal* in Fact,
 “ was not allowed even to be a *Party* in Form,
 “ after having run him into an Expenditure of about
 “ an hundred Pounds.”

But surely never Treaty was made in so loose
 and clumsy a Way as this Story is *told*; in which
 there is no Propriety, Consistency, or Probability:
 For unless Altercating is Treating, we have nothing
 belonging to a Treaty before us: Tho’ it is said,
 that in such a *Manner* a Treaty was concluded, no
Manner is specified; tho’ the respective Advocates
 are mentioned as the only Treaty-makers (which
 is strange enough, considering the Principals were
 present, with full Rights and Powers to propose,
 amend, and over-rule) no Mention at all is made
 of what was transacted on the Behalf of Mr.
Hickey: And as to the Lord Chief Justice of
England, no more Regard is paid to him than to
 the *Bench* he sat upon.

A Supplement is therefore manifestly necessary
 to supply this Defect; and such a Supplement is
 proposed to be added, as shall leave the Reader no
 Cause to complain, that the Controversy is any
 longer incomplete.

In order to which, we must take the Liberty to
 introduce a new Speaker, who made the principal
 Figure on *Hamilton’s* Side in this Affair, tho’ his
Solicitor has been pleased to discharge all his
 Wrath

Wrath on Sir *Thomas Bootle* : The Person I mean is Sir *Richard Lloyd*, who in open Court, and not before, addressing himself to Mr. *Hickey*, spoke to this Effect : That having convinced the Prosecutors of the Reasonableness of what he was going to propose, he did accordingly propose, that if Mr. *Hickey* would promise, not to bring any Action for a malicious Prosecution, they would acknowledge that their said Prosecution was precipitate, unadvised, rash, and without any Manner of Foundation.

But Mr. *Hickey* absolutely refused his Assent to this Proposal, insisting in the most earnest manner, That the Outrages offer'd to his Character by the Prosecutors, required the most signal and exemplary Reparation : Sir *Richard* admitting what *Hickey* had urged, was pleased to reply, That, upon his Honour, the Expedient he had recommended, he had recommended as the most honourable Method of acquitting him of the ignominious Charge laid against him ; that nothing could be a more full and clear Demonstration of the Defendant's Innocence than such a Confession of the Prosecutors : And that the Application now made to him on their Behalf was the strongest Implication imaginable, that the said Prosecutors were conscious, that they had brought themselves within the Reach of the very Laws, they had appealed to.

But here Mr. *Hickey* again objected, that Mr. *Hervey* had been so industrious to blacken and asperse him in all Companies, and upon all Occasions ; and in particular had discovered so much Eagerness to ruin him in the good Opinion of his Clients, that he did not think himself safe in submitting to a Compromise of any kind with a

Man who had manifested so much Malevolence against him.

Sir *Richard* then addressing himself to Mr. *Hervey* said, That to a Man of Profession such Behaviour was altogether unwarrantable : That it was therefore incumbent on him, to give Mr. *Hickey* the most explicit Assurances, that he wou'd never, directly nor indirectly, endeavour to injure him for the Future : That in Case he did give such Assurances, he (Sir *Richard*) would be bound to Mr. *Hickey*, that Mr. *Hervey* would never give him the like Offence for the future. Upon which the said Mr. *Hervey* promising upon his Honour in open Court, not to give Mr. *Hickey* any such Cause of Offence for the future ; and all Mr. *Hickey's* Friends that were present not only prompting him to acquiesce, but assuring him, that the Concessions made him were abundantly sufficient for his Justification to the whole World, Mr. *Hickey* did give his Assent to the Compromise.

Sir *Thomas Bootle* (so unjustly, injuriously, and foolishly distinguished from the Rest of the Prosecutor's Council) opened the Case, and concluded according to Agreement, by saying, That the Prosecution was precipitate, unadvis'd, and wholly without Foundation.

After which Sir *Richard Lloyd* stood up again and said, That as the Proposal to exempt the Prosecutors from Punishment, flow'd originally from him, he thought it incumbent on him to declare, in Justice to the Character of Mr. *Hickey*, That no body in the Profession stood upon fairer Terms, or deserved to stand upon fairer Terms, with the World, than he.—That the Prosecution was wholly without Pretence or Excuse—That he had been always of that Opinion from the Time he had been first consulted, &c.

Lastly, Mr. *Hume*, for the Defendant, went thro' the several Points of his Brief, in order to shew, that nothing had been admitted on the Side of the Prosecutors, which Mr. *Hickey* the Defendant had not a Sufficiency of Facts and Witnesses to prove, alike to the Confusion of the *Master* at the *Head* of the Prosecution, and the *Man* at the *Tail*.

This was, in Truth, the Case of Mr. *Joseph Hickey* under so *flagitious a Charge*: This was the *Compromise* or *Bargain struck up* in such a *hurrying Way*: This was the Acquittal which the *doughty Letter Writer* will not allow to be *honorable*: This is the Event which is to be an *eternal Reproach* both to the *Law* and the *Professors* of it.

What amazing Effronterie? Or what amazing Stupidity?

The Council for the Defendant think his Case so hard, and his Sufferings so extraordinary, that they take his Brief, and refuse his Fees. And the *Council* for the Prosecutors, ashamed of their *Clients*, and for *their* Sakes in Pain for the Issue, acknowledge their Faults, that they may provide for their Safety.

And if such a Mixture of Candour and Generosity, Prudence, and Moderation, is not an *Honour* to the *Law*, and the *Professors* of it, instead of being a *Reproach* to either, it must then be acknowledged, That his Honour Mr. *Hervey* may say with as good a Grace as Sir *John Falstaff*, That *there is no Virtue extant*.

Upon the whole Matter: If any Person under the Astonishment usually expressed, when it appears, that an innocent Person has been thus injuriously treated, should ask, Whether Mr. *Hickey* had ever given Mr. *Hervey* any Cause to persecute

persecute him in the Manner he has done? He would answer in the Negative with the clearest Conscience in the World.—And whereas the Prepossessions of some may incline them to believe, That Mr. *Hervey*, as a Man of HONOUR, could not proceed to such Extremities, without some Provocation, let them compare his *Two Books* with his *Promise* given in *Court*; and justify him if They can! Nor is Mr. *Hickey* unprovided with such Anecdotes in relation both to his *Law* and *other* Matters, as, if made public, would perhaps manifest, That, whatever Talents he has for Writing, he would find it a much harder Task to apologize for *Gentleman-Hervey*, than he has found it to asperse and vilify the Person, he has been pleased to call, *Gentleman-Hickey*.

F I N I S.

